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11 Attorneys for Plaintiff Matthew D. Scarlett

12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
14 **SAN JOSE DIVISION**  
15

16 Matthew Scarlett, individually and  
Derivatively on behalf of Alcohol By  
17 Volume, Inc.

18 Plaintiff,

19 vs.

20 Jonathan White, Cult of 8, Inc., and  
Gregory Ahn,

21 Defendants.  
22

Case No: 5:17-cv-01430-EJD

**JOINT STIPULATION AND**  
**~~PROPOSED~~ ORDER**

23 Plaintiff Matthew Scarlett (“Scarlett”) and Defendants Jonathan White (“White”), Cult of 8,  
24 Inc. (“CO8”), and Gregory Ahn (“Ahn”), through their undersigned counsel, hereby agree and  
25 stipulate as follows:

26 **RECITALS**

27 A. The parties to this Action have entered into a Settlement Agreement and Release,  
28 effective March 16, 2018 (“Settlement Agreement”) that resolves, among other things, all claims

1 asserted in this Action and all claims asserted in the related case, *Gregory Ahn, et al. v. Matthew D.*  
 2 *Scarlett, et al.*, Case No. 5:16-cv-05437-EJD. A copy of the Settlement Agreement is being lodged  
 3 with the Court.

4 B. The Complaint in this Action included claims by Scarlett asserted derivatively on  
 5 behalf of Alcohol By Volume, Inc. (“ABV”), specifically Counts 10 through 17 of the Complaint.

6 C. The individual parties to this action – Scarlett, White, and Ahn – are the only persons  
 7 who have been, or who have claimed to have been, shareholders of ABV.

8 D. All of the parties to this Action, specifically including, Scarlett, White, and Ahn,  
 9 jointly request the Court’s approval of the Settlement Agreement and the dismissal of the derivative  
 10 claims pursuant to the Federal Rule of Civil Procedure 23.1(c). Because Scarlett, White, and Ahn is  
 11 each a party to the above-referenced Settlement Agreement and to the voluntary dismissal of this  
 12 Action, notice has been given to all shareholders of ABV as required by Federal Rule of Civil  
 13 Procedure 23.1(c).

#### 14 **STIPULATION**

15 Based upon the above Recitals, the parties, through their undersigned counsel, hereby  
 16 stipulate and request that the Court enter an Order as follows:

17 1. The parties, through their undersigned counsel, hereby stipulate, pursuant to Federal  
 18 Rule of Civil Procedure 41(a)(1)(A)(ii), to dismiss this Action with prejudice, with each of the  
 19 parties bearing his or its own costs, disbursements, and fees.

20 2. The parties stipulate and request that the Court approve the Settlement Agreement  
 21 and the dismissal of the shareholder derivative claims, specifically Counts 10 through 17 of the  
 22 Complaint, pursuant to Federal Rule of Civil Procedure 23.1(c).

23  
 24 Dated: March 26, 2018

ANTHONY OSTLUND  
 BAER & LOUWAGIE P.A.

By: /s/ Randy G. Gullickson

Joseph W. Anthony (admitted *pro hac vice*)  
 Randy G. Gullickson (admitted *pro hac vice*)  
 Attorneys for Plaintiff Matthew D. Scarlett

1 Dated: March 26, 2018

COZEN O'CONNOR

2 By: /s/ Erik L. Jackson

Erik L. Jackson

3 Attorney for Defendant Jonathan White.

4  
5 Dated: March 26, 2018

PROCOPIO, CORY, HARGREAVES  
& SAVITCH LLP

6 By: /s/ Paul A. Tyrell

Paul A. Tyrell

7 Ryan C. Caplan

8 Alex G. Brizolis

Attorneys for Defendant Cult of 8

9  
10 Dated: March 26, 2018

COOLEY LLP

11 By: /s/ M. Ray Hartman III

M. Ray Hartman III

12 Dennis C. Crovella

Attorneys for Defendant Gregory Ahn

13  
14 **ORDER**

15 Based upon the above Stipulation of the parties, it is here herby ordered that:

16 1. The Settlement Agreement, a copy of which has been lodged with the Court, is  
17 hereby approved.

18 2. This Action, specifically including but not limited to all shareholder derivative claims  
19 asserted in the Complaint, is hereby dismissed with prejudice.

20 3. The parties shall bear their own costs, disbursements, and fees.

21 4. The Clerk shall close this file.

22 Dated: March 27, 2018

23  
24 

EDWARD J. DAVILA

United States District Judge